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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,763	09/05/2003	Mohamad Nourmohamadian	ULTERA.007A	6906
28222	7590	05/03/2006	EXAMINER	
LAW OFFICE OF GLENN R. SMITH 28626 BROOKHILL ROAD TRABUCO CANYON, CA 92679-1163			LUU, CUONG V	
			ART UNIT	PAPER NUMBER
			2128	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/655,763	Applicant(s) NOURMOHAMADIAN ET AL.	
	Examiner Cuong V. Luu	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-7 and 10-14 is/are rejected.
- 7) ☐ Claim(s) 4, 8-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/22/04</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 1-14 are pending. Claims 1-14 have been examined. Claims 4, and 8-9 have been objected. Claims 1-3, 5-7, 10-14 have been rejected.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Regarding claims 3 and 4, the phrase "common media commands" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "common media commands"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).
2. Regarding claim 4, the phrase "wherein said receiving step" renders the claims indefinite because there are 2 receiving steps recited in claim 1, on which claim 4 depends. The examiner does not know which receiving step is intended for further restriction in this claim. The examiner assumes the applicants mean the step of receiving non-media command.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3, 5-7, 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Keele et al (U.S. Patent 5,455,926).

1. As per claim 1, Keele et al teach a tape storage emulation method comprising the steps of:
 - providing response data corresponding to a tape storage device (col. 20, lines 32-34);
 - receiving a non-media command from a server (col. 104, lines 53-59);
 - sending said response data to said server in response to said non-media command (col. 38, lines 61-64; col. 104, lines 53-65);
 - receiving a media command from said server (col. 101, lines 2-4); and
 - applying said media command to a virtual tape volume configured on a disk storage device (col. 101, lines 2-4).
2. As per claim 2, Keele et al teach said providing step comprising the substep of accepting user defined configuration settings (col. 56, lines 10-11, 29-31).
3. As per claim 3, Keele et al teach the tape storage emulation method according to claim 1 wherein said providing step comprises the substeps of:
 - attaching a tape storage device to a controller (col. 22, lines 63-65);
 - sending a plurality of common nonmedia commands from said controller to said tape storage device during an initialization sequence (col. 53-65); and
 - capturing at least a portion of said response data from said tape storage device in response to said common nonmedia commands (col. 104, lines 60-62).

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4. As per claim 5, Keele et al teach said sending step comprises the substep of recalling said response data from a personality table (col. 80, lines 6-10).

5. As per claim 6, Keele et al teach a tape storage emulator comprising:

a server interface adapted to communicate with a server; a data path adapted to communicate with a random access data storage (col. 25, lines 20-22, 27-30);

a personality logic configured to provide response data corresponding to a sequential access data storage (col. 18, lines 48-54. The emulation controller in this tape drive emulation system perform tasks to make it appears to the system as though tape storage devices existing in the system even though optical disks are in the system. Therefore, it is clear that a form of functional logic perform the function of personality logic as claimed in this invention);

a virtual tape manager configured to store virtual tape data on said random access data storage (col. 25, lines 24-25; col. 31, lines 45-46);

said virtual tape manager responsive to a media command so as to transfer said virtual tape data between said random access data storage and said server (col. 31, lines 45-61);

said personality logic responsive to a non-media command so as to transfer said response data to said server (This limitation is rejected for the same reasons previously discussed in this very same claim 6).

6. As per claim 7, Keele et al teach the tape storage emulator according to claim 6 wherein:

said data path is further adapted to communicate with said sequential access data storage (col. 25, lines 27-30; col. 22, lines 66-67; col. 23, line 1); and

said personality logic is configured to capture said response data from said sequential access data storage (col. 16, lines 65-67).

7. As per claim 10, Keele et al teach a tape storage emulation method comprising the steps of:
providing a virtual tape controller adapted to communicate with a server, a disk storage and a tape storage (col. 22, lines 41-43; col. 16, lines 65-67));
receiving a non-media command from said server (col. 104, lines 53-59);
retrieving stored response data corresponding to said non-media command (col. 38, lines 61-64; col. 104, lines 53-65); and
responding to said non-media command with said stored response data so that said virtual tape controller appears to said server as said tape storage (col. 21, lines 18-20).
8. As per claim 11, these limitations have already been discussed in claims 1 and 3. They are, therefore, rejected for the same reasons.
9. As per claim 12, these limitations have already been discussed in claim 3. They are, therefore, rejected for the same reasons.
10. As per claim 13, these limitations have already been discussed in claim 1. They are, therefore, rejected for the same reasons.
11. As per claim 14, Keele et al teach the tape storage emulation method according to claim 13 comprising the further step of transferring data between a virtual tape volume maintained on said disk storage and said server in response to said media command (col. 62, lines 8-11).

Allowable Subject Matter

12. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. As per claim 8, it is objected to as being dependent upon a rejected base claim 7, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. As per claim 9, it is objected to as being dependent upon a rejected independent base claim 6, but would be allowable if rewritten in independent form including all of the limitations of the independent base claim and intervening claims 7 and 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong V. Luu whose telephone number is 571-272-8572. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah, can be reached on 571-272-2279. The fax phone number for the


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organization where this application or proceeding is assigned is 571-273-8300. An inquiry of a general nature or relating to the status of this application should be directed to the TC2100

Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CVL


KAMINI SHAH
SUPERVISORY PATENT EXAMINER